
(2018) 04 CAT CK 0048

In the Central Administrative Tribunal

Case No : Miscellaneous Application No. 305 Of 2018, Contempt Petition No. 459 Of 2015 , Original Application No. 513 Of 2009

Anil Kumar Shukla

APPELLANT

Vs

Kendriya Vidyalaya Sangathan

RESPONDENT

Date of Decision : 12-04-2018

Acts Referred:

Constitution Of India, 1950 — Article 32, 136, 209
Central Administrative Tribunal (Procedure) Rules, 1987 — Rule 24

Citation : (2018) 04 CAT CK 0048

Hon'ble Judges : V. Ajay Kumar, J;Nita Chowdhury, Member (A)

Bench : Division Bench

Advocate : S. Rajappa

Final Decision : Dismissed

Judgement

V. Ajay Kumar, J

1. Heard the applicant in person and Shri S. Rajappa, learned counsel for the respondents and perused the pleadings.

2. The instant MA No.305/2018 in OA No.513/2009 is filed by the applicant and the same reads as under:-

"MISCELLANEOUS APPLICATION UNDER RULE 24 OF CAT PROCEDURE RULES 1987 TO LIST MA No.150/2014 & MA No.169/2014 in OA No. 513/2009 AND MA No. 3645/2015, MA No. 3646/2015, MA No. 134/2016 & MA No.3267/2016 in C.P.No. 459/2015 in O.A.No.513/2009.

Most Respectfully Showeth

1. That, during the hearing of aforesaid matter on 29.11.2017, applicant most humbly raised his objections for non-listing of aforesaid MAs which was considered by the Hon'ble Tribunal and directed the applicant verbally therein to represent the matter before registry for listing and applicant was assured for

hearing of aforesaid MAs as soon as listed by the registry.

2. That thereafter Hon'ble Tribunal was pleased to accept his MA No.2395/2017 and accordingly CP was adjourned.

3. That accordingly applicant requested registry for listing of the aforesaid MAs Annexure MA-1 page No.2 of this MA, but not listed till date. Hence this MA.

Relief

That Hon'ble Tribunal may be pleased to direct registry for listing of aforesaid MAs for the interest of justice."

3. OA No.513/2009 filed by the applicant was disposed of by this Tribunal on 19.08.2009 as under:-

"....In view of the facts as explained above, we direct the respondents to hold a review DPC on 22.11.1007 in the case of applicant for the post of TGT (Maths) for the year 2007-08 and take a final decision on the basis of his ACRs whether he is fit for next promotion or not. In case he is found fit, he should be given the same benefits as extended to his juniors from the same date. This exercise shall be completed and order passed within a period of 2 months from the date of receipt of a copy of this order under intimation to the applicant.

7. With the above direction OA stands disposed off. No order as to costs."

4. C.P. No.120/2012 in OA No. 513/2009 alleging violation of the aforesaid orders was disposed of on 20.04.2012 as under:-

"3. We have heard both the counsel and perused the order passed by the respondents. Since applicant has already been dismissed from service on 1.3.2011, naturally there was no occasion for the respondents to open the sealed cover. However, we make it clear that ultimately, if applicant challenges his order of dismissal and the court quashes the same after being satisfied, respondents would have to comply with the directions given by this Tribunal in OA No. 513/2009. At present, since applicant has already been dismissed, we would agree with the respondents that no case for contempt is made out, therefore, this CP is dropped giving liberty to the applicant to revive the CP in case he succeeds in his case challenging the order of dismissal as we are informed that applicant is challenging the order dated 1.3.2011.

4. With the above observation, CP stands disposed of. Notices are hereby discharged".

5. MA No.150/2014 in C.P. No.120/2012 in OA No.513/2009 which was filed by the applicant for revival of the CP, was disposed of on 30.06.2014 along with certain other MAs and CP. MA No.169/2014 in CP No.120/2012 in OA No.513/2009 seeking an interim direction, pending the CP, was also deemed to have been disposed of on 30.06.2014 when MA No.150/2014 filed for revival of CP No.120/2012 was disposed of. MA Nos.3645/2015, 3646/2015, 134/2016 and

3267/2016 were filed in another CP No.459/2015.

6. It is not understandable how the applicant, though appearing in person, but a practicing advocate by himself, in whose presence the MA No.150/2014 was finally disposed of by an oral order of this Tribunal, filed the instant MA seeking to list the said disposed of MA again. It is also not understandable how the applicant filed a common MA seeking directions in respect of the MAs in two different CPs, one of which was already disposed of. It is also seen that the applicant is in the habit of keep on filing one MA after another, seeking irrelevant prayers with unsustainable pleas, though the issues were already adjudicated and held against him.

7. In Dr. Buddhi Kota Subbarao Vs. K. Parasaran AIR 1996 SC 2687 it was held by the Hon'ble Apex Court as under:-

"No litigant has a right to unlimited drought on the court time and public money in order to get his affairs settled in the manner as he wishes - Easy access to justice should not be misused as a licence to file mis-conceived or frivolous petitions".

Similarly in Sabia Khan Vs. State of U.P. AIR 1999 SC 2284 it was held by the Apex Court as under:-

"4. After hearing Mr. Sharma, learned counsel for the petitioners, it is obvious that the petition is mis-conceived and based on a total mis-conception. It is an obvious attempt to question the correctness of the orders of this Court through a writ petition under Article 32, which is not permissible. The objection with regard to the office report is also not tenable. Filing of such a petition is an abuse of the process of the Court and waste of the time of the Court. We do not find any merit in this petition which is dismissed with costs, assessed at Rs. 10,000/-".

Further the Hon'ble Supreme Court in Abdul Rahman Vs. Prasony Bain (2003) 1 SCC 488 held as under:-

"32. In the aforementioned situation, in our opinion, the appellant must be held to have taken recourse to abuse of process of court underlying the principle that the litigation should be allowed to attain finality in public interest. Although the concept of issues estoppel or estoppel by records are distinct and separate from the concept of abuse of process in public interest, the court may refuse the plaintiff from pursuing his remedy in a court of law. See Johnson v. Gore Wood & Co. [(2002) 2 AC 1.]

Similarly, the Hon'ble High Court of Delhi in H.S. Bedi Vs. National Highway Authority of India, 2016 (155) DRJ 259, held as under:-

"36. The party not approaching the court with clean hands would be liable to be non-suited and such party, who has also succeeded in polluting the stream of justice by making patently false statements, cannot claim relief, especially under Article 136 of the Constitution. While approaching the court, a litigant must state

correct facts and come with clean hands. Where such statement of facts is based on some information, the source of such information must also be disclosed. Totally misconceived petition amounts to an abuse of process of court and such a litigant is not required to be dealt with lightly, as a petition containing misleading and inaccurate statement, if filed, to achieve an ulterior purpose amounts to an abuse of process of court. A litigant is bound to make "full and true disclosure of facts".....

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17. This Court hopes that the Courts below shall invoke Section 209 of the Indian Penal Code in appropriate cases to prevent the abuse of process of law, secure the ends of justice, keep the path of justice clear of obstructions and give effect to the principles laid down by the Supreme Court in *T. Arivandandam v. T.V. Satyapal* (supra), *S.P. Chengalvaraya Naidu v. Jagannath* (supra), *Dalip Singh v. State of U.P.* (supra), *Ramrameshwari Devi v. Nirmala Devi* (supra), *Maria Margarida Sequeria Fernandes v. Erasmo Jack de Sequeria* (supra), *Kishore Samrite v. State of Uttar Pradesh* (supra) and *Subrata Roy Sahara v. Union of India* (supra).

Further, the Hon'ble Apex Court in *Subrata Roy Sahara Vs. Union of India* (2014) 8 SCC 470 held as under:-

"191. The Indian judicial system is grossly afflicted, with frivolous litigation. Ways and means need to be evolved, to deter litigants from their compulsive obsession, towards senseless and ill-considered claims. One needs to keep in mind, that in the process of litigation, there is an innocent sufferer on the other side, of every irresponsible and senseless claim. He suffers long drawn anxious periods of nervousness and restlessness, whilst the litigation is pending, without any fault on his part. He pays for the litigation, from out of his savings (or out of his borrowings), worrying that the other side may trick him into defeat, for no fault of his. He spends invaluable time briefing counsel and preparing them for his claim. Time which he should have spent at work, or with his family, is lost, for no fault of his. Should a litigant not be compensated for, what he has lost, for no fault? The suggestion to the legislature is, that a litigant who has succeeded, must be compensated by the one, who has lost. The suggestion to the legislature is to formulate a mechanism, that anyone who initiates and continues a litigation senselessly, pays for the same. It is suggested that the legislature should consider the introduction of a "Code of Compulsory Costs".

8. The present MA is another misconceived and frivolous petition filed by the applicant. Hence the MA does not deserve any consideration on the face of the facts on record. Though we are inclined to impose heavy costs on the applicant, but trusting that the applicant will not indulge in identical frivolous litigation in future, restraining ourselves from imposing the costs.

9. In the circumstances and for the aforesaid reasons, the MA is dismissed. No costs.